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8 KFC U.S. PROPERTIES, INC.

9  
10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION

13 KENNY ARCHILA, individually, and  
on behalf of all other similarly situated  
14 current and former employees of KFC  
U.S. Properties, Inc.,

15 Plaintiffs,

16 vs.

17 KFC U.S. PROPERTIES, INC., a  
18 Delaware corporation; and DOES 1  
through 100, inclusive,

19 Defendants.  
20  
21

Case No. 2:09-cv-0107 R (FMOx)

Hon. Manuel L. Real;  
(Magistrate Judge Fernando M. Olguin)

**PROTECTIVE ORDER**

PROPOSED CLASS ACTION

On removal from California Superior  
Court for the County of Los Angeles  
Case No. BC 399890

Trial Date: August 11, 2009

1 Based on the Stipulation and [Proposed] Protective Order signed by the  
2 parties on May 27, 2009, it is hereby ORDERED that:

3 1. Any person who produces or receives materials in the Action (*Archila,*  
4 *et al. v. KFC US Properties, Inc., et al.*, Case No. 2:09-cv-0107-R (FMOx))  
5 (including writings, as defined at Federal Rule of Evidence 1001, and/or things)  
6 through the discovery provisions of the Federal Rules of Civil Procedure may  
7 designate as “confidential” such materials as the person (“Designating Party”)  
8 believes in good faith and after reasonable inquiry, contain trade secrets, proprietary  
9 business information, or information subject to a legally protected right of privacy  
10 such as, without limitation, personnel and payroll information (“Confidential  
11 Material”).

12 2. All materials produced in this action that have not previously disclosed  
13 to the public shall be considered Confidential Material in this matter. It shall not be  
14 necessary to separately mark or identify Confidential Materials as such. Unless the  
15 Designating Party identifies material as having been produced to the public, all  
16 materials produced will be assumed to be Confidential Materials.

17 3. If a Designating Party determines that a document or thing it designated  
18 as Confidential Material does not qualify for protection, the Designating Party must  
19 promptly notify the party in receipt of the document or thing that it is withdrawing  
20 the mistaken designation.

21 4. Material designated as Confidential Material shall be subject to this  
22 Stipulation until and unless the Designating Party subsequently permits or allows its  
23 disclosure, or the Court or an officer of the Court designated by the Court to hear  
24 discovery matters in the Action shall order otherwise.

25 5. All information designated by a Designating Party as Confidential  
26 Material in accordance with this Stipulation shall be used solely for prosecuting,  
27 defending, or attempting to settle the Action. It may not be used for any business or  
28

1 commercial purpose or for any other litigation or any alternative dispute resolution  
2 procedure not related to the Action.

3         6. No party shall disclose any Confidential Material to the general public  
4 or to any person, except (i) any individual who is a party of record in the Action as  
5 of the date of entry of this Order, (ii) any officer, director, trustee, in-house counsel,  
6 or employee of a party of record who is actively assisting in the preparation and trial  
7 of the Action, (iii) outside counsel of record, its employees providing active  
8 assistance with the Action (including law clerks, legal assistants, technical  
9 assistants, secretaries and clerks of such counsel) and any outside vendors utilized  
10 by outside counsel of record in connection with the Action, (iv) expert witnesses and  
11 consultants engaged to assist counsel in the defense or prosecution of the Action,  
12 and (v) during the course of a deposition, to a person whose deposition is being  
13 taken. The parties agree to take all necessary and reasonable steps to prevent the  
14 unauthorized disclosure of Confidential Material and shall require that recipients of  
15 Confidential Material sign Exhibit A to this Stipulation as provided in ¶ 8.

16         7. Confidential Material may also be disclosed to (1) any person testifying  
17 at a deposition, hearing or at trial of the Action; (2) any court reporter acting in that  
18 capacity in the Action; or (3) the Court without need for a written  
19 acknowledgement, as provided in ¶ 8. Additionally, the Court and its personnel  
20 shall be exempt from any liability arising from this Stipulation and Order thereon.

21         8. In the event that a party does disclose Confidential Material to any  
22 person as permitted in ¶ 6 above, the disclosing party agrees to secure from such  
23 person a signed written acknowledgment (the "Acknowledgment") confirming that  
24 such person knows the terms of this Stipulation and that such person agrees to be  
25 bound by the terms of this Stipulation, and that such person agrees to submit his or  
26 her person to the jurisdiction of the above-entitled Court for the purpose of securing  
27 compliance with the terms of this Stipulation. The parties agree to secure the  
28 executed Acknowledgment before disclosing Confidential Material. The parties

1 agree that the Acknowledgment shall be in the form attached to this Stipulation as  
2 Exhibit A. The parties further agree to retain such Acknowledgments and to submit  
3 them to the Court for *in camera* review in the event that a party alleges that the  
4 terms of this Stipulation have been violated. Neither party has an obligation to  
5 reveal directly to the other the identities of persons who execute written  
6 Acknowledgements.

7       9. Except as provided in Paragraph 9(C) below, if at any time during this  
8 litigation a party ("Objecting Party") disputes the confidentiality of material  
9 designated as Confidential Material, the Objecting Party shall notify the Designating  
10 Party in writing of such dispute on or before June 22, 2009. The Objecting Party's  
11 notice shall identify the material in dispute and shall explain the basis for the  
12 disputed designation. Within four (4) days of receiving the Objecting Party's notice,  
13 the Designating Party shall meet and confer with the Objecting Party to attempt to  
14 resolve the disputed designation. If the parties cannot resolve the disputed  
15 designation, then the following procedure shall apply:

16       A) If the material designated as Confidential Material originated from a  
17       personnel file or contains financial information including, without  
18       limitation, payroll data, or contains trade secrets, including, without  
19       limitation, training materials and handbooks, then the Objecting Party  
20       may move for a ruling that the material designated as Confidential  
21       Material is not entitled to such status and protection. Such motion must  
22       be filed on or before June 29, 2009 for hearing by the Court on or  
23       before July 20, 2009. An opposition to such a motion shall be filed  
24       within seven (7) days of service of the motion, and a reply to the  
25       opposition shall be filed within seven (7) days of service of the  
26       opposition. Service under this paragraph shall be by facsimile or  
27       overnight mail next day delivery. The Objecting Party shall bear the  
28       burden of showing that the designation as Confidential Material is not

1 warranted. Until the Court rules on the motion regarding the disputed  
2 designation, the material shall be treated as Confidential Material.

3 B) If the material designated as Confidential Material did not originate  
4 from a personnel file or does not contain financial information  
5 including, without limitation, payroll data, or contains trade secrets,  
6 including, without limitation, training materials and handbooks, then  
7 the Designating Party may move for a ruling that the material  
8 designated as Confidential Material is entitled to such status and  
9 protection. Such motion must be filed on or before June 29, 2009 for  
10 hearing by the Court on or before July 20, 2009. An opposition to such  
11 a motion shall be filed within seven (7) days of service of the motion,  
12 and a reply to the opposition shall be filed within seven (7) days of  
13 service of the opposition. Service under this paragraph shall be by  
14 facsimile or overnight mail next day delivery. The Designating Party  
15 shall bear the burden of showing that the designation as Confidential  
16 Material is warranted. Until the Court rules on the motion regarding  
17 the disputed designation, the material shall be treated as Confidential  
18 Material.

19 C) For materials designated as Confidential Material produced after June  
20 22, 2009, the Objecting Party shall notify the Designating Party within  
21 four (4) days of receipt of such materials of a dispute with respect to a  
22 confidentiality designation. Within four (4) days of receiving the  
23 Objecting Party's notice, the Designating Party shall meet and confer  
24 with the Objecting Party in order to attempt to informally resolve this  
25 dispute. The last day for the Court to hear a motion concerning a  
26 confidentiality designation under this subsection shall be August 3,  
27 2009, or forty-five (45) days before any continued trial date (if the  
28 Court continues it), whichever is later. Nothing in this paragraph shall

1 be construed as any agreement by the parties that any continuation of  
2 the trial date is warranted or that any materials need be produced after  
3 the close of discovery in this Action.

4 10. The parties agree that neither plaintiffs nor defendants are required to  
5 file pleadings and other papers submitted to the Court in this action under seal,  
6 except that the parties agree that any Confidential Material, or any portion thereof,  
7 quoted therein or appended thereto, shall be submitted to the Court under seal. The  
8 Court hereby authorizes the filing of Confidential Material under seal without any  
9 further Court action being required by the parties.

10 11. If a party is served with a subpoena or an order issued by another court  
11 in other litigation that would compel disclosure of any information or items  
12 designated in the Action as Confidential Material, the party receiving the subpoena  
13 or order must notify, in writing, the Designating Party immediately and in no event  
14 more than three court days after receiving the subpoena or court order. Such  
15 notification shall include a copy of the subpoena or court order. Additionally, the  
16 party receiving the subpoena or court order shall immediately inform, in writing, the  
17 party who caused the subpoena or order to issue in the other litigation that some or  
18 all of the material covered by the subpoena or court order is the subject of this  
19 Stipulation and shall deliver a copy of this Stipulation promptly to the party in the  
20 other action that caused the subpoena or court order to issue. The purpose of  
21 imposing these duties is to alert all interested parties to the existence of this  
22 Stipulation and to afford the Designating Party an opportunity to protect its  
23 confidentiality interest in the court from which the subpoena or order issued. The  
24 Designating Party shall bear the burdens and expenses of seeking protection in the  
25 court from which the subpoena or order issued. Nothing in this Stipulation should  
26 be construed as authorizing or encouraging a party receiving a subpoena or order  
27 requesting Confidential Material to disobey a lawful directive from another court.

1           12. This Stipulation shall remain in full force and effect at all times during  
2 which any party to this Stipulation or any person having executed the  
3 Acknowledgment described in ¶ 8 above retains in his, her, or its possession,  
4 custody or control any Confidential Material.

5           13. Within sixty (60) days after the conclusion of the Action and with  
6 notice from the respective producing party, all originals and all copies of materials  
7 designated as Confidential Material, and, other than attorney work product, any  
8 notes, summaries, abstracts or portions of any such materials, including copies given  
9 to any expert or other person pursuant to this Order, shall be returned to the  
10 producing party or shall be destroyed. Counsel or other affected persons shall  
11 provide written confirmation of the materials' destruction. This provision shall not  
12 apply to court filings or file copies of pleadings, briefs or correspondence  
13 maintained by the parties' respective counsel in the ordinary course of business.

14           14. This Stipulation is without prejudice to the right of any party to move  
15 the Court for an order for protection of Confidential Material sought by or produced  
16 through discovery, which protection is different from or in addition to that provided  
17 for in this Stipulation, and such right is expressly reserved. Similarly, each party  
18 expressly reserves the right at any time to request the Court to authorize disclosure  
19 other than contemplated hereunder of materials subject to this Stipulation.

20           15. This Stipulation is without prejudice to the right of any party to bring  
21 before the Court at any time the question of whether any particular information is or  
22 is not relevant to any issue in this litigation, and such right is expressly reserved.  
23 Any designation of materials as confidential pursuant to this Stipulation shall not be  
24 construed as an admission of relevance.

25  
26 Dated: May 28, 2009

  
\_\_\_\_\_  
Hon. Manuel L. Real  
United States District Judge



**EXHIBIT A**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

KENNY ARCHILA, individually, and  
on behalf of all other similarly situated  
current and former employees of KFC  
U.S. Properties, Inc.,

Plaintiffs,

vs.

KFC U.S. PROPERTIES, INC., a  
Delaware corporation; and DOES 1  
through 100, inclusive,

Defendants.

Case No. 2:09-cv-0107 R (FMOx)

Hon. Manuel L. Real;  
(Magistrate Judge Fernando M. Olguin)

**CONFIDENTIALITY  
ACKNOWLEDGEMENT**

**PROPOSED CLASS ACTION**

On removal from California Superior  
Court for the County of Los Angeles  
Case No. BC 399890

Trial Date: August 11, 2009

This is to certify I have read the Protective Order entered in the above-entitled  
matter and agree (a) to be bound by the terms and conditions listed therein; and  
(b) to be subject to the jurisdiction of the Court and any sanctions imposed by the  
Court in the event the Court determines I have violated the Protective Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name